DOCKET FILE COPY ORIGINAL

REBOUL, MACMURRAY, HEWITT, MAYNARD & KRISTOL

SUITE 406

1111 NINETEENTH STREET, N.W.

WASHINGTON, D. C. 20036

TELEPHONE: (202) 429-0004

TELECOPIER: (202) 429-8743

45 ROCKEFELLER PLAZA

NEW YORK, N.Y. 10111

TELEPHONE: (212) 841-5700

TELECOPIER: (212) 841-5725

SUITE 1500

1801 CENTURY PARK EAST

LOS ANGELES, CALIF. 90067

TELEPHONE: (310) 551-3070

TELECOPIER: (310) 551-3071

RECEIVED

MAR 6 - 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

March 6, 1998

VIA HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: CC Docket No. 92-237 -- Comments of IXC Long Distance, Inc.

Dear Ms. Salas:

On behalf of IXC Long Distance, Inc. ("IXCLD"), enclosed please find an original and eleven (11) copies of IXCLD's Comments in the above-referenced matter. A diskette with IXCLD's Comments in Wordperfect 5.1 is also enclosed. A copy of ICXLD's Comments and a diskette with IXCLD's Comments in Wordperfect 5.1 is being provided to Ms. Carmell Weathers at the Common Carrier Bureau. Further, one copy of IXCLD's Comments is being provided to International Transcription Services, Inc. ("ITS").

Should you have any questions, please do not hesitate to contact me.

Sincerely yours,

Kristie S. Hassett

Kristie S. Hassett

Enclosures

cc: Service List -- 1 copy via U.S. Mail
Ms. Carmell Weathers -- 1 copy, w/diskette via Hand Delivery
ITS -- 1 copy via Hand Delivery

DC-4415.1

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Administration of the	)	
North American Numbering Plan	)	CC Docket No. 92-237
Carrier Identification	)	
Codes (CICs)	)	

COMMENTS OF IXC LONG DISTANCE, INC.

Gary L. Mann
Assistant General Counsel -
Regulatory Affairs
IXC Long Distance, Inc.
1122 Capital of Texas Hwy. South
Austin, Texas 78746
(512) 231-5217

Dated: March 6, 1998

DC-4357.1

IXC Long Distance, Inc.
March 6, 1998

SUMMARY OF COMMENTS

IXC Long Distance, Inc. ("IXCLD") wishes to make three points in responding to the Commission's invitation for comments.

First, IXCLD strongly opposes limiting the number of CICs an entity may acquire through CIC transfers and to requiring entities with multiple CICs to surrender all CICs over a certain maximum limit. Entities with more than the maximum number of CICs will incur large expenses in transferring customers to their remaining CICs. Thus, such a policy would only serve to increase costs to consumers and impede competition. However, if the Commission establishes a maximum number of CICs per entity, entities should be allowed to retain no fewer than six CICs. Entities also should be permitted to choose which CICs to return, and there should be a transition period of at least four years within which to do so. These steps would help carriers limit the costs of switching customers to their remaining CICs.

Second, even if the entity to which the CIC is assigned is not itself acquired or merged, CIC transfers should be allowed when a customer base is acquired through an asset purchase. Allowing the CIC to "follow" the customer base to the acquiring entity will promote competition and growth in the telecommunications industry.

Third, the use of reseller indicator codes ("RICs") would assist the Commission's efforts to conserve four-digit CICs by decreasing reseller demand for CICs. Further, proper identification of resellers in local exchange carrier records would reduce the number of erroneous slamming complaints and, where slamming has occurred, would help to prevent misidentification of the underlying carrier, instead of the reseller, as the slammer.

IXC Long Distance, Inc.
March 6, 1998

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Administration of the North American Numbering Plan Carrier Identification Codes (CICs)	))))))	CC Docket No. 92-237

COMMENTS OF IXC LONG DISTANCE, INC.

IXC Long Distance, Inc. ("IXCLD") is a non-dominant interexchange long distance provider. IXCLD provides service in the 48 contiguous continental United States as well as internationally. IXCLD currently acts as an underlying carrier for a large number of resale carriers.

IXCLD has reviewed the "Report and Recommendations of the CIC Ad Hoc Working Group to the North American Numbering Council (NANC) Regarding Use and Assignment of Carrier Identification Codes (CICs)," hereinafter referred to as the "NANC Report" and agrees with many of its conclusions. Nevertheless, in response to the Commission's Further Notice of Proposed

Rulemaking,[1] IXCLD will limit its specific comments to the three topics discussed below.

I. No Limitation Should Be Imposed On The Number Of CICs An Entity May Hold.

The Commission proposes to set a limit on the number of CICs that an "entity" may hold.[2] (Paragraphs 35 and 36 of the NPRM.) The NANC Report, however, concludes that no limit should be imposed on the number of CICs an entity may hold. (NANC Report, Paragraph 29.)

IXCLD strongly opposes the imposition of a limit on the number of CICs an entity may acquire, when the CICs are legitimately obtained through transfers from other entities. IXCLD also objects to the NPRM proposal that entities with multiple CICs be required to surrender all CICs over that limit. An administrative policy that constrains entities to a small, arbitrary number of CICs fails to consider the way in which carriers actually conduct business and acquire new customer bases, and therefore will only serve to harm competition and stifle growth.

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[1] These comments will cite the numbered paragraphs of the Commission's October 9, 1997 Further Notice of Proposed Rulemaking and Order in CC Docket No. 92-237 as "Paragraph ___ of the NPRM."

[2] IXCLD does not object to the Commission's proposed modification to the definition of an "Entity," discussed at Paragraph 24 of the NPRM.

The current long distance telecommunications business is extremely competitive, with existing carriers and new start-up companies all competing for customers. The most successful carriers are those that are able to grow their customer bases while at the same time containing their costs. One way in which carriers seek to grow and expand into new markets is through merger with or acquisition of other carriers. Indeed, a prime consideration in the decision whether to acquire a new telecommunications business, or a portion of a business, is the size and composition of its customer base. An entity that has successfully expanded its own business in this way will have its customer base divided among multiple CICs. The Commission's proposals would have a serious adverse economic impact on all entities (and their customers) that have already acquired, through mergers or acquisitions, more than the maximum number of CICs. These successful carriers will have to pay anywhere from $5 to $15 per customer to transfer customers to other CICs.

Future competition and growth in the telecommunications industry will also be harmed if CIC transfers are limited as proposed in the NPRM. An entity that has already obtained the maximum number of CICs, but desires to acquire another carrier also possessing a CIC or CICs, will have to pay to transfer the entire new customer base to one or more of its own CICs. This burdensome and expensive process will certainly increase costs to consumers and will hamper competition by discouraging consolidations through mergers and acquisitions.

Competition is promoted when carriers are allowed to combine their financial and technical resources, enabling them to better serve their customers and to offer a full range of competitively priced services. Companies should not be dissuaded from pursuing sound business goals because of the inability to acquire the CIC associated with a particular customer base, and the resulting expense of switching customers from one CIC to another. In short, CIC administration policy should not interfere with or otherwise influence the business decisions of telecommunications carriers. The Commission's proposals, however, would have just this effect.

The goal of CIC conservation does not justify imposing an economic penalty (the cost of switching customers between CICs) on entities with "too many" CICs, or on growing companies attempting to gain new customers by acquiring another carrier or its customer base. Better, less harmful alternatives exist. CIC conservation can be satisfactorily achieved by limiting the number of CICs that can be directly assigned to an entity, and by reclaiming CICs no longer in use. CICs that are no longer associated with a current customer base -- which is, of course, the asset of the greatest value to the acquiring company -- should not be transferred. Further, as discussed below, the use of four-digit RICs can help ameliorate the need for the proposed drastic conservation measures. Given these other conservation alternatives, there is simply no valid reason to limit the number of CICs that entities acquire through legitimate arms-length business transactions.

Alternatively, if the Commission decides to limit the number of CICs an entity may possess (no matter how the CIC is acquired), and if excess CICs are required to be returned, the Commission should allow no fewer than six CICs per entity.[3] Further, the Commission should take steps to mitigate the adverse economic impacts of this new policy. Each entity should be allowed to choose which CICs to return, and there should be a transition period of at least four years within which to do so.

By allowing an entity to choose which CICs to surrender, companies may be able to minimize costs by returning the CIC with the smallest customer base, which would require the least number of customers to be transferred to other CICs. The use of a transition period would also help to defray costs. During the

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[3] IXCLD agrees with NANC's suggestion that "any entity in need of more than six directly assigned CICs [be permitted to] petition the Commission to request such additional assignments." (NANC Report, Paragraph 24.)

transition period, the entity could grow its customer base on another CIC, and normal customer attrition on the CIC to be surrendered would result in fewer remaining customers to be switched at the end of the transition period. Thus, this procedure for returning CICs would help carriers to limit the significant expenses associated with switching customers to other CICs.

II. CICs Should Be Transferred When The Customer Base Associated With The CIC Is Acquired.

With the exception of prohibiting a transfer where the acquiring or merged entity would have more than its maximum number of CICs, the NPRM proposes adopting the criteria for CIC transfers contained in Section 5.2 of the CIC Assignment Guidelines.[4] (Paragraph 38 of the NPRM.) Section 5.2 limits the transfer of CICs to situations involving the complete merger or acquisition of an "entity." IXCLD urges the Commission to adopt less restrictive criteria for the transfer of CICs.

While IXCLD agrees with the NANC's recommendation that "CICs" associated with mergers and acquisitions should transfer to the new entity..." (NANC Report Paragraph 27), IXCLD believes that CIC transfers should not be limited to these specific types

4 As discussed above, the Commission should not impose a limitation on the number of CICs that an entity can acquire through transfers.

of transactions. Limiting CIC transfers to the merger or acquisition of an "entity" ignores transactions involving asset sales, every-day occurrences in the business world. For various legitimate business reasons, companies chose to buy and sell subsidiaries or assets associated with a particular business line. For example, a previously acquired business may not turn out to be a good fit, or a company may decide to change directions, and therefore choose to sell a subsidiary or division.

A company also might want to acquire a subsidiary or business line of another entity, in order to acquire a specific customer base. However, unless the entire entity is merged or acquired, Section 5.2 prohibits transfer of the CIC associated with the customer base of the particular subsidiary or business line. The current CIC transfer rule should be revised to recognize asset sales as legitimate business transactions, and to allow the CIC to "follow" the customer base. Accordingly, IXCLD proposes the following criteria for CIC transfers:

> A CIC which is in use may be transferred to another entity through: (i) merger or acquisition of an entity; or (ii) an asset or stock purchase of an entity's business subsidiary or business associated with a CIC, provided that the entire customer base associated with that CIC is also acquired.

IXCLD is not suggesting that CICs themselves can or should be purchased. Rather, IXCLD is proposing that the Commission recognize that a customer base is in and of itself a valuable asset, which would lose significant value if each customer must be transferred by the acquiring company to another CIC.

III. <u>Four-Digit RICs Can Be Used to Assist in CIC Conservation.</u>[5]

The use of four-digit RICs with CICs would be a valuable tool for CIC conservation. Resellers request CIC assignments for a variety of reasons, not the least of which is to be able to bill end users in their own names, through the bills of local exchange carriers ("LECs"). (<u>See</u> Paragraph 5 of the NPRM.) By using four-digit RICs, which could be added to the underlying carrier's CIC, resellers would not need to obtain their own CICs to specifically identify their own services. RICs would thus allow resellers to accomplish their billing and name recognition goals, while decreasing the demand for CICs. LECs currently have the technical ability to accommodate the addition of RICs.[6]

Further, using RICs to specifically identify resellers would serve two important purposes in the Commission's battle against slamming. Proper identification of a reseller in the

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5 CIC conservation is addressed in Section III.C. of the NPRM.

6 Interexchange carriers submit mechanized changes in Presubscribed Interexchange Carrier ("PIC") assignments for local telephone numbers to the local exchange carriers via a "CARE" record. This record contains fields that may be used to identify specific resellers. For example, Bellcore could standardize a four digit alpha-numeric field with discrete codes assigned to each switchless reseller.

LECs' records would help to avoid customer confusion about the identity of a customer's preferred carrier, and decrease the number of erroneous slamming complaints. Additionally, where slamming has taken place, proper identification of resellers would also prevent misidentification of the underlying carrier, instead of the reseller, as the slammer.

IV. Conclusion

The Commission should not limit the number of CICs an entity may acquire through CIC transfers, and entities with multiple CICs should not be required to return all CICs over any maximum limit. Alternatively, if CICs are limited, entities should be allowed to retain no fewer than six CICs; they should be permitted to choose which CICs to return; and there should be a four year transition period for surrendering excess CICs. CIC transfers should be allowed when the customer base associated with that CIC is acquired, through purchase of a subsidiary or business line, even if the entity to which the CIC is assigned is not itself acquired or merged. Finally, using RICs would assist in the Commission's efforts to conserve four-digit CICs, and could also help to combat slamming.

Respectfully submitted,

Gary L. Mann /ksot

Gary L. Mann
Assistant General Counsel -
Regulatory Affairs
IXC Long Distance, Inc.
1122 Capital of Texas Hwy. South
Austin, Texas 78746
(512) 231-5217

Dated: March 6, 1998

CERTIFICATE OF SERVICE

I hereby certify that on March 6, 1998 a copy of the foregoing Comments of IXC Long Distance, Inc. was served by first-class mail, postage pre-paid, to the parties listed on the attached service list for CC Docket No. 92-237.

Kristi Stokes Hassett

Kri~~stie~~ Stokes Hassett

DC-4412.1

[illegible]
Glenn S. Richards
Fisher Wayland Cooper
Leader & Zaragoza, L.L.P.
2001 Pennsylvania Ave. NW
Suite 400
Washington, DC 20006-1851

92-23[illegible]
Heather Burnett Told
President-Alts
1200 19th Street, N. W.
Suite 607
Washington, DC 20036

92-237
James L. Casey
Air Transportation ASS.
of America
1301 Pennsylvania Avenue
of America
Washington, DC 20004

92-237
James L. Wurtz
Pacific Telesis
Suit
1275 Pennsylvania Ave. NW
Washington, DC 20004

92-237
James S. Blaszak
Francis E. Fletcher, Jr.
Garder, Carton & Douglas
Suite 900
1301 K. Street, N.W.
Washington, DC 20005

92-237
Jay C. Keithley
Leon Kestenbaum
Norina T. Moy
Sprint Corporation
1850 M Street, N.W.
Washington, DC 20036

92-237
Jeffrey S. Bork
US West, Inc.
1020 19th Street, N.W.
Suite 700
Washington, DC 20036

92-237
John L. Barlett
Robert J. Butler
Aeronauical Radio, Inc.
1776 K. Street, NW'
Washington, DC 20006

92-237
John M. Goodman
Karen Zacharia
1710 H. Street, N.W.
Washington, DC 20006

92-237
Johnathan D. Blake
Ellen K. Snyder
Covington & Burling
1201 Pennsylvania Ave.NW
P.O. Box 7566
Washington, DC 20004

92-237
Josephine S. Trubek
Rochester Telphone Corp.
180 South Clinton Avenue
Rochester, NY 14646

92-237
Leonard J. Kennedy
Laura H. Phillips
Dow Lohnes & Albertson,
1200 New Hampshire Ave,NW
Suite 800
Washington, DC 20036-6802

92-237
Linda D. Hershman
Southern New England
Telecommunications Corp
227 Church Street
New Haven, CT 06510

92-237
Lireta H, Garicia
Donald J. Elardo
MCI Tele. Corp.
1801 Pennsylvania Ave.,NW
Washington, DC 20006

92-237
Lucille M. Mates
Pacific Bell
140 New Montgomery Street
room 1526
San Francisco, CA 94105

92-237
M. Robert Sutherland
Shirley A. Ransom
BellSouth Coporation
4300 Southern Bell Center
675 W. Peachtree St. N.E.
Atlanta, GA 30367

92-237
Mark C. Rosenblum
Robert J. Mckee
Albert M. Lewis
295 N. Maple Avenue
Room 3244JI
Basking Ridge, NJ 7920-1092

92-237
Mary Mcdermott
Associate General Counsel
Suite 600
1401 H Street, N. W.
Washington, DC 20005-2136

92-75

92-237
A.A. Kurtze
Centel Corporation
8725 Higging Road
Chicago, IL 606031

92-237
Albert H. Kramer
Robert F. Aldrich
Dickstein Shapiro & Morin
2101 L Street, N.W.
Washington, DC 20037-1526

92-237
Andrew Lipman
Swidler & Berlin, Charter
3000 K Street, N.W.
Suite 300
Washington, DC 20007

92-237
Bell Atlantic
1300 I Street, N.W.
Suite 400W
Washington, DC 20005

92-237
Bell Communications
Research, Inc. (Bellcore)
2101 L Street, N.W.
Suite 600
Washington, DC 20037

92-237
BellSouth Telecommunicati
Inc.
675 W. Peachtree St., NE
Southern Bell Center
Suite 4300
Atlanta, GA 30375

92-237
Bruce D. Jacobs
Fisher Wayland Cooper
Leader & Zaragoza, L.L.P.
2001 Pennsylvania Ave. NW
Suite 400
Washington, DC 20006-1851

92-237 2/25 Change of Address
Cambell L. Ayling
NYNEX Corporation
1095 Ave. of the Americas
Suite 3142
New York, NY 10036-6797

92-237
Carl Wayne Smith
Chief Regulatory counsel
Telecommunications
701 S. Courthouse Road
Arlington, VA 22204

92-237
Charles C. Hunter
Hunter & Mow, P.C.
1620 Eye Street, N.W.
Suite 701
Washington, DC 20006

92-237
Daniel L, Brenner
David L. Nicoll
NCTA
1724 Massachusetts Ave.nw
Washington, DC 20036

92-237
Daniel L. Bart
GTE Service Coporation
1850 M Street, N.W.
Suite 1200
Washington, DC 20036

92-237
Daniel M. Waggoner
Davis, Wright & Tremaine
1501 Fourth Avenue
Seattle, WA 98101

92-237
Darrell S. Townsley
Illinois Commerce Comm.
160 North LaSalle Street
Chicago, IL 60601

92-237
David A. Gross
AirTouch Communications
1818 N Street, N.W.
Washington, DC 20036

92-237
David C. Henny
Whidbey Telephone Co.
2747 E. State Highway 525
Langley, WA 98260-9799

92-237
David Cosson
NTCA
2626 Pennsylvania Avenue,
N.W.
Washington, DC 20037

92-237
David J. Gudino
1850 M Street, N.W.
Suite 1200
Washington, DC 20036

92-237
Dr. Lee L. Selwyn
Economics and Technology,
Inc
One Washington Mall
Boston, MA

92-237
Elizabeth R. Sachs
Lukas McGowan Nace &
Gutierrez
1111 19th Street, N.W.
Suite 1200
Washington, DC 20036

92-237
Floyd S. Keene
Larry A. Peck
Ameritech Services, Inc.
2000 West Ameritech
Center Drive, Suite 4H82
Hoffman Estates, IL 60196-10

92-237
Michael F. Altschul
Cellular Telecom Industry
Association (CTIA)
1250 Connecticut Ave., NW
Suite 200
Washington, DC 20036

92-237
Michael S. Slomin
Bell Communications
Research, Inc.
445 South Street
Morristown, NJ 07960-6454

92-237
Micheal G. Hoffman, Esq.
Vice President
Legal & regulatory Affair
3200 West Pleasant Run
Road
Lancaster, TX 75146

92-237
Mr. Robert Sutherland
Shirley A. Ransom
4300 Southern Bell center
675 West Peachtree Street
N.E.
Atlanta, GA 30375

92-237
Office of Advocacy
U.S. Small Business
Administration
409 Third Street, S. W.
Seventh Floor
Washington, DC 20416

92-237
Pamela J. Riley
AirTouch Communications
1 California Street
17th Floor
San Francisco, CA 94111-5401

92-237
Paul Rodgers
Charles D. Gray
NARUC
1102 IIC Building
P.O. Box 684
Washingting, DC 20044

92-237
Peter Guggina
Robert W. Traylor, Jr.
2400 N. Glenville Drive
Richardson, TX 75082

92-237
R. E. Sigmon
Cincinnati Bell
201 E. 4th Street
P.O.Box 2301
Cincinnati, OH 45201

92-237
R. Michael Senkowski
Jeffrey S. Linder
1776 K. Street, N. W.
Washington, DC 20006

92-237
Raymond G. Bender, Jr.
Dow Lohnes & Albertson
1200 New Hampshire Ave NW
Suite 800
Washington, DC 20036-6802

92-237
Richard A. Askoff
100 South Jefferson Road
Whippany, NJ 07981

92-237
Robert M. Lynch
Mary W. Marks
175 E. Houston, Room 1262
San Antonio, TX

92-237
Thomas E. Taylor
Christopher J. Wilson
2500 PNC Center
201 East Fifth Street
Cincinnati, OH 45202

92-237
W. Theodore Pierson, Jr.
Richard M. Metzger
1200 19th Street, N.W.
Suite 607
Washington, DC 20036

92-237
Werner K. Hartenberger
J. G. Harrington
Dow Lohnes & Albertson
1200 New Hampshire Ave NW
Suite 800
Washington, DC 20036-6802

92-237
WilliamJ. Cowman
Three Empire State Plaza
Albany, NY 12223